

May 15, 2006

Municipal Stormwater Phase II Western Washington Comment
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

Department of Ecology
Water Quality Program
MAY 19 2006

WesternComments@ecy.wa.gov

RE: Western Washington Municipal NPDES Stormwater Comments

Dear Mr. Moore,

The City of Auburn has reviewed the Western Washington Phase II Stormwater Draft Permit published for public review on February 15th, 2006. The City has serious concern related to a few areas of the draft permit. Our concerns are addressed below.

1. The Federal Clean Water Act regulates discharges from the MS4, not from other sources into the MS4. Revise S2.A.1. as follows *"All discharges into and from municipal separate storm sewers owned or operated by Permittees must be in compliance with this permit"*. This could also potentially transfer liability from the appropriate responsible party for stormwater discharges from private property.
2. Delete section S4.A from the Compliance With Standards section because it would make stormwater programs (MS4s) inappropriately subject to a state law provision (RCW 90.48.520) intended to apply to wastewater (i.e., water and wastes discharged from homes, businesses and industry) treatment programs.
3. Delete reference to RCW 90.48.520 from definitions of "All known, available and reasonable methods of prevention, control and treatment" in the Definitions and Acronyms section.
4. Clarify that implementation of SWMP is equal to MEP is equal to AKART. Add the following to existing statements in both Phase I and Phase II permits under section S5 Stormwater Management Program. *"The Stormwater Management Program (SWMP) shall be designed to reduce the discharge of pollutants from regulated small MS4s to the MEP, meet*

state AKART requirements, and protect water quality.” Add: Compliance with the permit and implementation of the SWMP is deemed to be in compliance with this MEP requirement, state AKART requirements and requirements to protect water quality.

5. Remove all references in the permit and Appendix 1 to sections of the 2005 Department of Ecology Stormwater Manual other than the Manual’s minimum requirements, thresholds, definitions, and adjustment and variance criteria.
 - Having the references to sections of the 2005 Ecology Stormwater Manual in Appendix 1 and in the permit language changes the status of the 2005 Stormwater Manual from that of guidance to a permit condition. Requiring the 2005 Stormwater Manual as a permit condition goes well beyond minimum technical requirements of the Clean Water Act.
6. Clarify and revise references in Section S7 Total Maximum Daily Load Allocations and Appendix 2 to refer to “applicable MS4 elements of the TMDL Detailed Implementation Plan (DIP)” whenever there is a reference to TMDL as a permit condition because the permittee is required to implement applicable MS4 elements from the TMDL Detailed Implementation Plan (DIP) and not the TMDL.
7. Revise the definition of Illicit Discharge. The term “Discharge” is defined on page 44, lines 37-38, “for the purpose of this permit means, unless indicated otherwise, any discharge from a MS4 owned or operated by the permittee.” The definition of “Illicit discharge” on page 45, lines 24-27, should be changed to be consistent with the definition of discharge. Change the definition to read, “Illicit discharge” means any discharge to a municipal separate storm sewer from a MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit; ~~other than the NPDES permit for discharges from the municipal separate storm sewer and discharges resulting from fire fighting activities~~
8. Section S8 Monitoring. The monitoring requirements outlined in the draft permit do not appear to create a comprehensive long-term monitoring program that is coordinated and designed to answer questions related to trends in water quality and the effectiveness of the permit implementation. The Department of Ecology should form a Stormwater Partnership with Phase I and Phase II jurisdictions, environmental groups, other interested stakeholders, and Ecology staff from the Water Quality (NPDES) Program, Environmental Assessment Program, and a policy level staff person that

spans internal program divisions. This on-going partnership will be responsible for:

- Coordinating with the State on a baseline and trend assessment monitoring strategy at a watershed level that would link and coordinate with salmon recovery and Puget Sound Initiative programs.
- Developing and replacing existing monitoring language in phase I and II permits with language that reflects a monitoring program that would provide:
 - Meaningful management information for improving BMP selection and making other stormwater management decisions
 - Reliable indicators that SWMP actions were making reasonable progress towards desired outcomes.
 - Coordination and analysis of information across jurisdictions and agencies through the partnership to reduce redundancies, realize efficiencies, and improve transparency.

Ecology should convene the Partnership as soon as possible to allow timely issuance of the NPDES Municipal stormwater permits.

9. The pre-developed land cover condition requirement should be changed to reflect the existing land cover that was in place at the time of incorporation and/or annexation into the individual jurisdiction.
10. The Department of Ecology should reissue the revised Phase I WSDOT permit at the same time as the other Phase I and Phase II permits to ensure consistency between permittee conditions and obligations.

Thank you for the opportunity to review this draft permit. If you have any technical questions related to these comments please contact Tim Carlaw, Storm Drainage Engineer, at (253) 804-5060.

Sincerely,



Dennis R. Dowdy P.E.
Director of Public Works

DD/tw

CC: Duane Huskey P.E., Utilities Engineer
Chris Thorn, Water Quality Programs Coordinator

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